

# National Association of Regulatory Utility Commissioners

## Incorporated

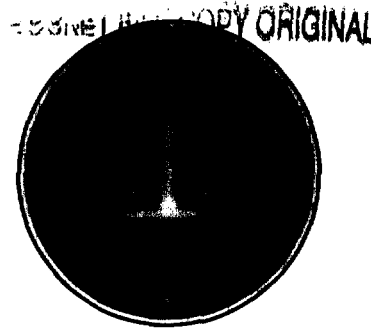
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September 16, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

**RE: In the Matter of Telephone Number Portability**  
**CC Docket No. 95-116** [CC Docket No. 95-116; FCC 96-286]  
61 FR 38687 [7-25-96]

Dear Mr. Caton:

The National Association of Regulatory Utility Commissioners submits these reply comments generally supporting, inter alia, the comments filed by the New York Public Service Commission. The Telecommunications Act of 1996 requires that the costs of number portability be borne by all telecommunications carriers on a competitively neutral basis. On June 27, 1996, the Commission adopted a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on the appropriate methods of cost recovery of long-term number portability. New York and others filed comments in response to the FNPRM.

At its July 1996 summer meetings, NARUC passed a **Number Portability Resolution** in response to the FCC's FNPRM. A copy of that resolution is attached to the comments. The resolution states NARUC's support for the following positions:

- 1 Shared industry number portability costs must be recovered from all telecommunications carriers, including incumbent and new local exchange carriers, interexchange carriers, and commercial mobile radio service providers, consistent with the Act;
- 2 Regional shared industry costs should be recovered on a regional basis;

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\*Member of the Executive Committee of the Association

- 3 For each carrier subject to separations, those shared industry costs recovered from that carrier, any carrier-specific number portability-specific costs, and any carrier-specific non-number portability-specific costs should be allocated between the interstate and intrastate jurisdictions using established separations procedures; and
- 4 The FCC should develop the broadest policy guidelines possible to ensure that number portability cost recovery occurs on a competitively neutral basis while allowing the states maximum flexibility in the recovery of intrastate number portability costs.

Points 3 and 4, supra, suggests the FCC's tentative conclusions concerning the scope of its authority under § 251(e)(2) is in error. Section 251(e)(2) grants the FCC authority to determine the basis on which the costs associated with number portability will be borne by the carriers. Accordingly, the allocation of costs among carriers is within the purview of the FCC's jurisdiction. That authority, however, does not extend to the carrier's recovery of the intrastate portion of the number portability costs from their customers. To the extent that such cost are recovered through rates for intrastate service, such recovery is a matter subject to state jurisdiction.

Respectfully Submitted,



James Bradford Ramsay  
Assistant General Counsel

## **Number Portability Resolution**

**WHEREAS**, The Telecommunications Act of 1996 (the Act) directs each local exchange carrier "to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission" (Section 251(b)(2)) and requires that the cost of establishing number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission" (Section 251(e)(2)); and

**WHEREAS**, The Federal Communications Commission (FCC) issued a Further Notice of Proposed Rulemaking (FNPRM) in CC No. 95-116 inquiring as to the appropriate cost recovery mechanisms regarding long-term number portability; and

**WHEREAS**, Comments and reply comments are due in that docket on August 16, and September 16, 1996, respectively; and

**WHEREAS**, The FCC has chosen a number portability architecture that uses regionally-deployed databases to be administered by local number portability administrator(s) chosen by the North American Numbering Council, and has determined that any state that prefers to develop its own statewide database may opt out of the designated regional database; and

**WHEREAS**, The FCC has tentatively identified three types of costs involved in the provision of long-term service provider number portability: (1) shared costs incurred by the industry as a whole, such as regional database costs; (2) carrier-specific costs directly related to number portability, such as switch software costs; and (3) carrier-specific costs not related to number portability, such as network upgrades; and

**WHEREAS**, The FCC seeks comment on the meaning of the statutory language "all telecommunications carriers" as the term is used in Section 251(e)(2); whether the FCC has authority to exclude certain groups of carriers from the number portability cost recovery mechanisms; and, if so, which carriers should be excluded; and

**WHEREAS**, The FCC seeks comment on whether shared industry costs, if recovered from all carriers, should be recovered on a nationwide or regional basis; and

**WHEREAS**, National pooling or averaging of regional shared industry costs may reduce incentives to incur costs in the most economically efficient manner, may lead to regional cross-subsidizations, and is not necessary to ensure competitive neutrality; and

**WHEREAS**, National or regional pooling or averaging of carrier-specific costs may reduce incentives to incur costs in the most economically efficient manner, and is not necessary to ensure competitive neutrality; and

**WHEREAS**, For purposes of cost recovery, the existing separations process is the appropriate mechanism for allocation of number portability costs between interstate and intrastate jurisdictions; now, therefore, be it

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1996 Summer Meeting in Los Angeles, California, supports the recovery of shared industry number portability costs from all telecommunications carriers, including incumbent and new local exchange carriers, interexchange carriers, and commercial mobile radio service providers, consistent with the Act; and be it further

**RESOLVED**, That regional shared industry costs should be recovered on a regional basis; and be it further

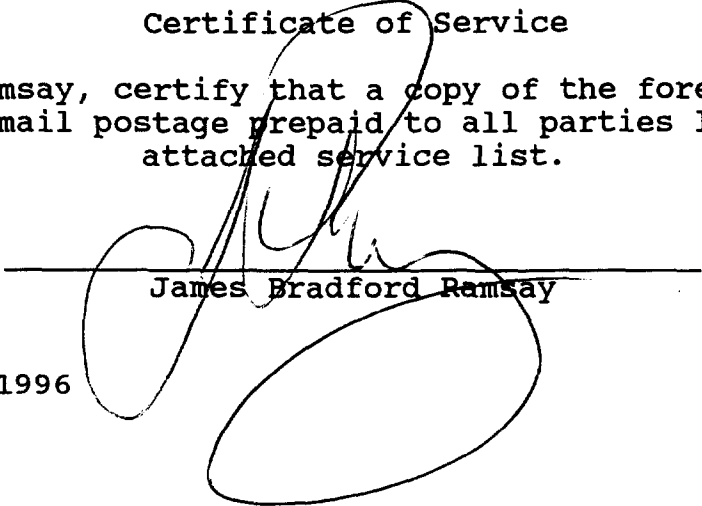
**RESOLVED**, That, for each carrier subject to separations, those shared industry costs recovered from that carrier, any carrier-specific number portability-specific costs, and any carrier-specific non-number portability-specific costs should be allocated between the interstate and intrastate jurisdictions using established separations procedures; and be it further

**RESOLVED**, That the FCC is encouraged to develop the broadest policy guidelines possible to ensure that number portability cost recovery occurs on a competitively neutral basis while allowing the states maximum flexibility in the recovery of intrastate number portability costs; and be it further

**RESOLVED**, That NARUC authorizes its General Counsel to take any actions necessary in the FCC's number portability proceeding to further the goals enunciated in this resolution.

Certificate of Service

I, James B. Ramsay, certify that a copy of the foregoing was sent first class mail postage prepaid to all parties listed on the attached service list.



James Bradford Ramsay

September 16, 1996